

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON NATURAL RESOURCES

Call to Order: By **CHAIRMAN CINDY YOUNKIN**, on February 7, 2001 at 3:00 P.M., in Room 152 Capitol.

ROLL CALL

Members Present:

Rep. Cindy Younkin, Chairman (R)
Rep. Rick Dale, Vice Chairman (R)
Rep. Gail Gutsche, Vice Chairman (D)
Rep. Keith Bales (R)
Rep. Rod Bitney (R)
Rep. Dee Brown (R)
Rep. Gilda Clancy (R)
Rep. Aubyn A. Curtiss (R)
Rep. Larry Cyr (D)
Rep. Bill Eggers (D)
Rep. Ron Erickson (D)
Rep. Christopher Harris (D)
Rep. Linda Holden (R)
Rep. Joan Hurdle (D)
Rep. Rick Laible (R)
Rep. Jeff Laszloffy (R)
Rep. Douglas Mood (R)
Rep. Bob Story (R)
Rep. Brett Tramelli (D)
Rep. David Wanzenried (D)

Members Excused: Holly Jordan, Committee Secretary

Members Absent: None.

Staff Present: Staci Leitgeb, Committee Secretary
Larry Mitchell, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 420, 2/2/2001; HB 421,
2/2/2001; HB 477, 2/2/2001
Executive Action: HB 477; HB 159; HB 125; HB 209

HEARING ON HB 420 & HB 421

Sponsor: REP. JIM SHOCKLEY, HD 61, Victor

Proponents: Clint McRae, Forsyth, self & NPRC
Bill Bollweir, Miles City, self
Carol Lambert, WIFE
Lorna Karn, Montana Farm Bureau
Steve Gilbert, Helena, self
Jeff Barber, CFC

Opponents: John Fitzpatrick, Touch America
Paul Miller, Stillwater Mining
Tom Ebzery, Qwest
Geoff Feiss, Montana Telecommunication Association
Rebecca Watson, Express Pipeline
Gail Abercrombie, Montana Petroleum Association
Don Allen, WETA

Opening Statement by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 0.6}

REP. JIM SHOCKLEY, HD 61, Victor, read a statement from REP. SYLVIA BOOKOUT-REINICKE, HD 71, Alberton stating she is a strong proponent for HB 420 and HB 421. He stated that the Department of Transportation may be offering some amendments. He went over the bills separately.

HB 420 - provides that if you condemn for one use you cannot use the land for another use. He gave an example and a history of the bill. The rights of the landowner have to be presented in writing and signed. The landowner does not have to accept the offer and may receive reimbursement for expenses if he has to fight the offer. The necessary expenses start when the first offer is made. The landowner has up to 10 days before trial to accept the offer. He gave several examples regarding how this bill will work.

HB 421 - relates to the use of the land. If you condemn for a railroad you cannot use the land for a fiber optics line. He gave an example.

Proponents' Testimony:

{Tape : 1; Side : A; Approx. Time Counter : 15.8}

Clint McRae, Forsyth, self & NPRC, stated that he hopes there is consensus that landowners' private property rights should be protected. He spoke about the threat of condemnation on his ranch. He supports HB 420. Regarding HB 421, it is difficult to live with the threat of having your property taken from you. The legislature should strive to make the laws of eminent domain as clear as possible. A concern raised by landowners was the issue whether they were fully protected from having the land taken for one use and then having another use replaced without the landowner's consent. He stated, as a landowner he wants the opportunity to negotiate each and every use of any right-of-way taken from him. This may already be provided for in law but lets make the law absolutely clear. He encouraged a do pass of both bills.

Bill Bollweir, Miles City, self, stated that he is in support of both the bills. He gave examples of easements he has on his land. Property rights are sacred and should be protected.

Carol Lambert, WIFE, stated that WIFE is adamantly against any taking of private property. Since the law does allow for it at least these bills might give landowners some protection. She asked for a do pass.

Lorna Karn, Montana Farm Bureau, stated eminent domain is quite an issue for the bureau. Landowners must be fairly compensated for all use or damage to their land. Regarding HB 420, the EQC interim committee did take a look at these issues. She is not sure that the bill is necessary as she believes the landowner rights are lined out in the booklet on eminent domain **EXHIBIT(nah31a01)**. She asked for a do pass.

Steve Gilbert, Helena, self, stated that condemnation victims have no rights. The very nature of condemnation suggests that there aren't any rights. The rights created by both of the bills are very reasonable. He urged a do pass.

Opponents' Testimony:

{Tape : 1; Side : A; Approx. Time Counter : 27.8}

John Fitzpatrick, Touch America, stated that Touch America is opposed to HB 420. Section 3, part 2, of the bill expands the criteria under which attorney's fees can be reimbursed to people who are in condemnation hearings. He went over those fees and gave examples. **{Tape : 1; Side : B; Approx. Time Counter : 2.2}** He passed out a map **EXHIBIT(nah31a02)**.

Paul Miller, Stillwater Mining, stated that Stillwater Mining is in opposition of both bills. The substance of HB 420 was discussed and considered in the EQC subcommittee hearings and it was determined that a booklet would be produced by the EQC. The bill contemplates that the attorney for the condemnor ends up advising the condemnee. That is a clear conflict of interest. Another problem with HB 420 is there is nothing that suggest what happens if the advice given by the attorney or condemnor is incorrect. The bill does not have any mechanism for the awarding of attorney's fees if there is a bargain struck and litigation is not necessary. One of the provisions of the proposed statute that is worrisome is subsection 5 as it is too broad. The proposed amendments to 70-30-306 have some provisions that are quite vague. They require that the condemnor compensate or reimburse the condemnee for expenses incurred in anticipation of litigation or as a result of litigation and court costs. What are those expenses? Subsection 4 is too vague as it says necessary expenses accrue after the first offer of purchase by the condemnor. If you make an offer of purchase and a month later you settle how do you collect those necessary expenses? Regarding HB 421, the bill says that the condemnor may not use the property for any use that is not contained in the condemnation order. The condemnor is entitled to complete fee simple title of the property therefore the condemnor owns it. There should not be any restrictions on what the condemnor can do with the property.

Tom Ebzery, Qwest, stated he reluctantly opposes the bills. Regarding HB 421, that bill was discussed by the subcommittee and they decided not to move the bill forward to the full committee. He gave the reasons for that decision. HB 420 has some drafting errors or unintended consequences. The problems addressed in the bill are already addressed in the eminent domain handbook. He went over the problems with the reimbursement of attorney fees. He asked the committee to table both of the bills.

Geoff Feiss, Montana Telecommunication Association, submitted written testimony **EXHIBIT (nah31a03)**.

Rebecca Watson, Express Pipeline, stated that Express Pipeline opposes the bills because they were addressed over the interim. She urged the committee to table the bills.

Gail Abercrombie, Montana Petroleum Association, stated that when you add any language to a bill, even if it is clarifying, judges presume that something has been changed. She asked, regarding HB 421, page 17, line 16, if an additional use is proposed and the landowner has no problem with an additional use does this statute, if it is enacted, then preclude the additional use

agreed to? She gave an example. **{Tape : 2; Side : A; Approx. Time Counter : 0.1}**

Don Allen, WETA, stated that WETA hopes that the committee will give the bills a do not pass.

Informational Testimony:

{Tape : 2; Side : A; Approx. Time Counter : 1}

Nick Rotering, Department of Transportation, stated that he is available to answer any technical questions.

Questions from Committee Members and Responses:

{Tape : 2; Side : A; Approx. Time Counter : 2}

REP. CLANCY asked **REP. SHOCKLEY**, regarding HB 420, page 3, lines 12 - 13, what is the intent of adding the word anticipation of litigation? **REP. SHOCKLEY** stated, in most instances there is no litigation. This will give the landowner a fair deal. He gave an example. This will allow the landowner to hire a lawyer to negotiate the fair market value of the land.

REP. HARRIS asked **REP. SHOCKLEY**, regarding the requirement that advice on eminent domain be provided to the condemnee, where is this bill going to go. What if bills are proposed that the landlord has to provide advice to the tenants when there is eviction? What is the limitation of this? **REP. SHOCKLEY** stated, we are talking about real property here. Landlord/tenant issues are totally different. **REP. HARRIS** asked what if the advice given is wrong? **REP. SHOCKLEY** stated, on page 2, line 1, that is way to broad. He stated that he would like that taken out. Page 1 is really pretty definitive. The rights granted to a condemnee are outlined in the Constitution. **REP. HARRIS** asked what happens if it's missing, what is the consequence of that? **REP. SHOCKLEY** stated then you have a lawsuit.

REP. ERICKSON asked **REP. SHOCKLEY**, regarding HB 420, top of page 3, would the condemnor be required to follow a different route if there had been nothing in the previous negotiations about the need for a different route? Would there have to be some sort of trail of evidence that there had already been some conversation about this? **REP. SHOCKLEY** stated all of this is negotiable and in most situations it is negotiated. As the statute reads now, if you fight the condemning entity and you don't get more money, than initially offered, then you lose. Often to the landowner it is not the money, it is where the easement goes. There is a

written offer submitted. **REP. ERICKSON** stated there is going to be some times when the landowner's major consideration is not money but route and that he has been talking about that the whole time with the condemnor. Doesn't there have to be a paper trail?

REP. SHOCKLEY stated there have been negotiations before anyone ever gets to court.

REP. DALE asked **REP. SHOCKLEY** using an example of a pipeline carrying a fairly dense liquid where velocity flows and turbulent flow or laminar flow is a consideration, thrust blocks are needed, would the company be required to give the landowner a complete set of plans so the surveyor would know what he is dealing with when he surveys out an alternate route? **REP.**

SHOCKLEY stated yes. He gave an example. Regarding attorney fees, the landowner only gets his fees if he wins the lawsuit.

REP. DALE asked then if the landowner thinks that they have a better route and they end up back at one of the alternatives the company proposed, are they then the winner? **REP. SHOCKLEY** stated if they go to court and the court goes with the company's suggestion they lose. Therefore they get no fees and are punished for their unreasonableness and so will their attorney.

REP. STORY asked **REP. SHOCKLEY** if he contemplates this bill preventing the new owner of the property from using it for other uses? **REP. SHOCKLEY** stated that is unclear. When you obtain a land in fee simple title you can do anything you want with it.

That has to be clarified by amendment. **REP. STORY** asked, regarding HB 421, why is section 70-30-111(3) exempted from the requirement that you can't expand the use of the condemned property? **REP. SHOCKLEY** stated this addresses the issue of multiple public uses, they may be exclusive or they may be compatible. If the easement is already being used for a public use the public use for which the property is proposed to be used is more necessary. If that is the situation then this doesn't apply. The reason is you might have the first use and now you have the second use, this provides you can use it for both uses and it's compatible.

REP. STORY asked **Ms. Watson** is it your testimony that Express Pipeline never had to condemn their way through anything? **Ms. Watson** stated they have two pieces of property that just about went to condemnation. They were able to successfully negotiate those without going to trial. **REP. STORY** stated that it is his recollection that they did go to condemnation and the court said they didn't have the power of eminent domain. **Ms. Watson** stated she would check on that.

REP. STORY asked **Ms. Abercrombie** if a pipeline decided they were no longer going move crude and started moving gasoline would that be a permissible use and not have any adverse impact on the

easement? **Ms. Abercrombie** stated this issue came up in the EQC subcommittee hearings and Todd Gunderson, an attorney in Billings, indicated that the judge issues the order and it depends on what is in the order that the permissible use is. **REP. STORY** stated that the judge may limit it to one thing is because of the different risks in transporting different products. **Ms. Abercrombie** stated, generally the issue is the value of the easement taken.

Closing by Sponsor:

{Tape : 2; Side : A; Approx. Time Counter : 29}

REP. SHOCKLEY addressed the issues raised by the opponents and in the questions. ***{Tape : 2; Side : B; Approx. Time Counter : 2.2}*** He went over his proposed amendments and asked for a do pass.

HEARING ON HB 477

Sponsor: **REP. DAVE KASTEN, HD 99, Brockway**

Proponents: Kim Kafka, Havre, self
Ken Mesaros, Cascade, self
Bob Spoklie, Kalispell, self
Steve Pilcher, Montana Stock Growers Association
Cary Hegreberg, MWPA
Lorna Karn, Montana Farm Bureau
Don Allen, WETA
Peggy Trenk, Montana Association of Realtors
Mike Collins, Helena, self
Charles Brooks, Billings Chamber of Commerce
Becky Mesaros, Cascade, self
Mark Taylor, Montana Alternative Livestock Producers
Patrick Heffernan, MLA
Bob Williams, Hobson, self
Jim Mockler, Montana Coal Council
Angela Janacaro, MMA
Barry Stang, MAMC
Mike Murphy, MWRA
Gail Abercrombie, MPA

Opponents: None.

Opening Statement by Sponsor:

{Tape : 2; Side : B; Approx. Time Counter : 13.9}

REP. DAVE KASTEN, HD 99, Brockway, stated HB 477 has to do with MEPA fees. It equates the fees charged and the cost of gathering information that is required for a project.

Proponents' Testimony:

{Tape : 2; Side : B; Approx. Time Counter : 15.2}

Kim Kafka, Havre, self, handed out five letters regarding his experience with MEPA fees **EXHIBIT(nah31a04)**, **EXHIBIT(nah31a05)**, **EXHIBIT(nah31a06)**, **EXHIBIT(nah31a07)** and **EXHIBIT(nah31a08)**. He then went over those letters and his experience. He urged a do pass.

Sen. Ken Mesaros, Cascade, self, stated that he was on the EQC subcommittee that reviewed MEPA. One of the concerns that was raised in that committee was the inconsistency in calculating project costs. He gave some examples. This bill is a simple attempt to enforce some streamlining and some consistency within the MEPA projects cost calculations. He asked for the committee's support of HB 477.

Bob Spoklie, Kalispell, self, gave an example of an elk ranching operation he worked with. These costs are used to stop operations. He asked for the committee's support of HB 477.

Steve Pilcher, Montana Stock Growers Association, stated MEPA was a very well intended piece of legislation. It has been effectively used to inform the public of the details and the impacts of a lot of different projects. However, it has also been use to effectively unnecessarily delay a lot of projects. This bill is due to the fact that the statute contains too many subjective terms which make it very difficult for the regulatory agency to determine when they have achieved full compliance with MEPA. MEPA does need to be modernized. This bill is one step in the right direction. He asked for the committee's support of HB 477.

Cary Hegreberg, MWPA, stated that MWPA supports HB 477. This is one of five bills that have been advanced by a coalition of Montana industries to modernize MEPA. ***{Tape : 3; Side : A; Approx. Time Counter : 0.1}*** He asked for a do pass.

Lorna Karn, Montana Farm Bureau, stated MFB supports the bill. It is time to bring the MEPA regulations and policies into the 21st Century. She urged the committee to support HB 477.

Don Allen, WETA, stated that this is part of a package of bills regarding MEPA. It is a fairly simple but important bill. He asked for a do pass. **Patrick Heffernan, Montana Logging Association** asked **Mr. Allen** to show his support of the bill also.

Peggy Trenk, Montana Association of Realtors, stated MAR supports HB 477. This is a forward looking bill. Today major subdivisions require an EIS and this bill does clarify that project values not property values will be taken into account. She asked for the committee's support of HB 477.

Opponents' Testimony: None.

Informational Testimony:

{Tape : 3; Side : A; Approx. Time Counter : 3}

Janet Ellis, Montana Audubon, stated Montana Audubon participated in the EQC study of MEPA and one of the things they did not get to was looking at the fee structures. SJ 3 will suggest that EQC look at the fee structure. Fees are only required for EIS's and the only EIS process that uses property values is with the alternative livestock industry in FWP. With the passage of I-143 alternative livestock are not being granted any longer.

Questions from Committee Members and Responses:

{Tape : 3; Side : A; Approx. Time Counter : 4.2}

REP. CURTISS asked **Mr. Mesaros** would there be this kind of an assessment done on a ranch changing from raising cattle to raising sheep? **Mr. Mesaros** stated not at this time. The assessments have to do with alternative livestock. **REP. CURTISS** asked, in your experience as a rancher wouldn't you consider that perhaps sheep grazing could be just as injurious to sloping property as the alternative livestock? **Mr. Mesaros** stated that he could see numerous applications in the future to trigger environmental reviews from the traditional agriculture that we see today. This has to be addressed right now to create some consistency through the application of MEPA.

REP. HURDLE asked **Ms. Ellis** to repeat her testimony regarding SJ 3. Is this a moot point? **Ms. Ellis** went over her testimony again.

Closing by Sponsor:

{Tape : 3; Side : A; Approx. Time Counter : 7.6}

REP. KASTEN stated there have been no hearings yet on SJ 3 and this bill would not be inconsistent with that resolution. This bill does not mean that the agency will charge a project sponsor any less for an EIS it simply requires that whatever the agency does the charge is justified.

EXECUTIVE ACTION ON HB 477

{Tape : 3; Side : A; Approx. Time Counter : 9.4}

Motion: **REP. GUTSCHE** moved that **HB 477 DO PASS.**

Discussion:

REP. CURTISS stated it has become more and more obvious that this one group of ranchers have been singled out and discriminated against. That is a compelling reason that the committee should pass HB 477.

REP. HURDLE stated that game farms aren't going to be permitted anymore and this fee structure is only used in game farms. She asked for an explanation of why this bill is needed.

REP. YOUNKIN stated there aren't going to be anymore new game farms but there are existing licenses out there.

Mr. Mitchell stated it is his recollection of I-143 is that no new game farm licenses can be issued and game farm licenses cannot be transferred. He is not sure what it says about the expansion of existing game farms. If there is no state decision to be made then there will not be a MEPA action.

REP. HURDLE asked, shouldn't we know all of this before we consider the bill? Why are we considering the bill when we don't know what's going on? **REP. YOUNKIN** stated, the statute never said anything about the value of the land in calculating the fees on any project. What this bill does is makes sure that there isn't some other fee imposed upon a landowner for a project. It makes it clear in statute that the value of the land is not to be used in calculating the fees to be imposed. **REP. HURDLE** asked, so even though we know that this is only used on game farms at the moment we're still going to do it as a preventive measure? **REP. YOUNKIN** stated, yes to make it clear if there is any question by any other department.

REP. GUTSCHE stated subdivisions may be affected by this in the future.

REP. STORY stated there is a lawsuit going and you could be back in the same situation with game farms. He gave an example of why this bill is needed.

REP. MOOD stated it is true that the only place that this has been applied to date is in game farm applications. Anybody who applies for a state application can be vulnerable to having their assets included in the calculation of applying for permits.

REP. BALES stated, this portion of the law has been used to single out a small group of individuals. Whether or not you think that they are bad, good or indifferent it was used punitively to single them out and cause them a lot of extra expense and harm. Who is going to be the next to be singled out? This bill has to pass to insure fairness.

REP. ERICKSON stated, it was not fair in the past and would not be fair in the future. He stated that the bill should be moved ahead.

Vote: Motion that **HB 477 DO PASS** carried unanimously.

EXECUTIVE ACTION ON HB 159

{Tape : 3; Side : A; Approx. Time Counter : 19.8}

Motion/Vote: **REP. DALE** moved **BRING HB 159 FROM THE TABLE FOR PURPOSES OF DISCUSSION AND AMENDMENT**. Motion carried 18-2 with Hurdle and Mood voting no.

Motion: **REP. DALE** moved that **HB 159 DO PASS**.

Motion: **REP. DALE** moved that **AMENDMENT HB015901.ALM BE ADOPTED**.

Discussion:

Mr. Mitchell passed out the amendment **EXHIBIT (nah31a09)** and explained it.

REP. DALE asked **Mr. Mitchell** it requires them to solicit and evaluate but it would not require them to accept any one of those proposals, correct? **Mr. Mitchell** stated that is his understanding.

Vote: Motion that **AMENDMENT BE ADOPTED** carried unanimously.

Motion: **REP. DALE** moved that **HB 159 DO PASS AS AMENDED**.

Discussion:

REP. YOUNKIN stated that this situation has come up in Gallatin County. If this bill is not passed it will cost the taxpayers of Gallatin County \$2,000,000.

Vote: Motion that **HB 159 DO PASS AS AMENDED** carried unanimously.

EXECUTIVE ACTION ON HB 125

{Tape : 3; Side : A; Approx. Time Counter : 28.3}

Motion: **REP. DALE** moved that **HB 125 DO PASS**.

Discussion:

REP. BROWN asked is this going to be used as it has only been used once since it's inception? **REP. YOUNKIN** stated it's inception has only been five years. The original temporary water quality standards were passed in the 1995 session and have been used twice.

Motion: **REP. YOUNKIN** moved that **AMENDMENT HB012501.ALM BE ADOPTED**.

Discussion:

{Tape : 3; Side : B; Approx. Time Counter : 2.1}

REP. YOUNKIN passed out the amendments **EXHIBIT(nah31a10)** and explained them.

REP. GUTSCHE asked **REP. YOUNKIN** asked who decides that they are achievable? **REP. YOUNKIN** stated, the board would decide.

REP. HOLDEN asked, would this fit with the amendment on page 3, line 23? **REP. YOUNKIN** stated yes. **REP. HOLDEN** stated, the department suggested 60 days rather than 90 days. Regarding page 2, line 1, do you feel 90 days was still better? **REP. YOUNKIN** stated 90 days is more doable for the department.

Motion: **REP. YOUNKIN** moved that a **SUBSTITUTE AMENDMENT TO CHANGE 90 TO 60 ON PAGE 2, LINE 1 BE ADOPTED**.

REP. HURDLE asked are these the amendments that would make ASARCO feel more comfortable. **REP. YOUNKIN** stated yes they were suggested by Frank Crowley on behalf of ASARCO. **REP. HURDLE** asked, so where do we stand now with beneficial uses? **REP.**

YOUNKIN stated, regarding the underlined language on page 1, line 25, it is the goal of the temporary water quality standards to improve the water quality of that stream to which those beneficial uses can be achieved. **REP. HURDLE** asked so if they can't be achieved it is ok? **REP. YOUNKIN** stated, the goal is to try and get to that point but sometimes you can't. This would allow an entity to have the temporary water quality standards so they could at least try to achieve those beneficial uses and not be in violation of the water quality act in the meantime.

REP. GUTSCHE stated, regarding amendment number 3, doesn't it knock the water quality standards down several notches? **REP. YOUNKIN** stated, changing the language as in amendment number 3 makes it consistent with subparagraph 1 of 75-5-312.

REP. DALE stated, part of that discussion was the fact that some bodies of water have been classified incorrectly.

REP. WANZENRIED asked, why isn't the stream classified properly in the first place? **REP. YOUNKIN** stated classification of streams is dealt with in a different section than the temporary water quality standards. In some cases that is exactly what they do is get it classified properly.

REP. HURDLE stated she is concerned because there weren't even temporary water quality standards before 1995 and now we're going backwards. If we didn't have amendment number 2 there wouldn't be a need for amendment number 3. **REP. YOUNKIN** stated she doesn't see amendments 2 and 3 as being connected. You need to have 3 in order to be consistent throughout the bill.

REP. ERICKSON stated amendment number 3 is needed because the water bodies classification really ought not be entered into this whole issue. The bill was designed to be able to use this section of the law better. The amendments do that.

Vote: Motion that **AMENDMENTS BE ADOPTED** carried 17-3 with Gutsche, Hurdle, and Wanzenried voting no.

Motion/Vote: **REP. DALE** moved that **HB 125 DO PASS AS AMENDED**. Motion carried unanimously.

EXECUTIVE ACTION ON HB 209

{Tape : 3; Side : B; Approx. Time Counter : 15.8}

Motion: **REP. HARRIS** moved that **HB 209 DO PASS**.

Discussion:

REP. HARRIS handed out a grey bill **EXHIBIT(nah31a11)** two sets of amendments **EXHIBIT(nah31a12)** and **EXHIBIT(nah31a13)** and a summary of restrictions **EXHIBIT(nah31a14)**.

Motion: REP. HARRIS moved that **AMENDMENTS REFLECTED IN THE GREY BILL WITH THE EXCEPTION OF NUMBER 28, ALONG WITH THE DEQ AMENDMENT BE ADOPTED.**

Discussion:

REP. HARRIS explained the amendments.

REP. CLANCY asked, regarding the handwritten amendments, "following court" is on page 9, line 22. **Mr Mitchell** stated these amendments are to the actual bill. It is on line 22 on the grey bill.

REP. HARRIS continued explaining the amendments. *{Tape : 4; Side : A; Approx. Time Counter : 0.1}*

REP. YOUNKIN asked REP. HARRIS are the DEQ and business interests reasonably happy with these amendments? REP. HARRIS stated he does not believe business interests are endorsing the bill but they are much happier with it as a result of the changes. All of DEQ's concerns have been satisfied.

REP. DALE asked REP. HARRIS why he pulled number 28 out. REP. HARRIS stated, DEQ did not feel it was necessary for them to recover attorney's fees and they didn't want it to get complicated with larger lawsuits.

REP. LAIBLE asked REP. HARRIS how do the amendments apply to the complications with VICRA? REP. HARRIS stated there is nothing in the bill that in any way affects VICRA.

Mr. Mitchell explained the grey bill.

REP. MOOD asked REP. HARRIS if there is an amendment addressing the due process concerns. REP. HARRIS stated yes. There is more due process in the handwritten amendment than there is in current law.

REP. STORY asked REP. HARRIS why is the process only limited to individuals and small businesses? REP. HARRIS stated, any major company has attorneys and experts to pursue their remedies in court. The scope of potential damages are very limited.

Vote: Motion that **AMENDMENTS BE ADOPTED** carried unanimously.

Motion/Vote: REP. HARRIS moved that **HB 209 DO PASS AS AMENDED**.
Motion carried 12-8 with Bales, Bitney, Clancy, Curtiss, Laible, Mood, Story, and Younkin voting no.

ADJOURNMENT

Adjournment: 6:00 P.M.

REP. CINDY YOUNKIN, Chairman

HOLLY JORDAN, Secretary

CY/HJ

EXHIBIT (nah31aad)